



BOARD OF EQUALIZATION

PROPERTY TAX COMMITTEE MEETING MINUTES

HONORABLE KATHLEEN CONNELL, COMMITTEE CHAIR

450 N STREET, SACRAMENTO

NOVEMBER 1, 2000, 1:30 P.M.

ACTION ITEMS & STATUS REPORT ITEMS**Agenda Item No: 1****Title:** *State Assessment Manual* (formerly Assessors' Handbook Section 541)**Issue/Topic:**

Should the Board authorize publication of the State Assessment Manual (formerly AH 541); and, with respect to the Board's longstanding policy on delegating assessment jurisdiction of leased, state-assessed land to county assessors, should it include:

- (a) language that is neutral on the Board's historical policy; or
- (b) language that describes the Board's historical policy; or
- (c) language describing a new practice and procedure as proposed by an industry representative?

Committee Discussion:

Staff described their recommendation to adopt the manual with neutral language.

Staff addressed their intent to further study emerging issues involving cellular communication sites and present their findings regarding assessment delegation to the Property Tax Committee in March 2001.

Committee Action/Recommendation/Direction:

The Committee voted to recommend that the Board authorize publication of staff's recommended draft and direct staff to meet with interested parties, further analyze the matter of assessment delegation, and return to the Committee in March 2001 with a recommendation regarding delegation.

Agenda Item No: 2

Title: Proposed Property Tax Rule 305.3, *Application for Equalization after a Mandatory Audit*.

Issue/Topic: (Issue Paper 00-040)

Should the rulemaking process for Property Tax Rule 305.3 be delayed until the court of appeal decides *Heavenly Valley v. El Dorado County Board of Equalization* due to the fact that the court may decide an issue or issues addressed by Rule 305.3?

Committee Discussion:

Staff described their recommendation to continue the rulemaking process despite the pending litigation and requested the Committee to address the remaining four issues.

Committee Action/Recommendation/Direction:

The Committee voted to recommend that the Board direct staff to continue the rulemaking process.

Issue/Topic: (Issue Paper 00-041)

Should Property Tax Rule 305.3 interpret the equalization provisions of Revenue and Taxation Code section 469 as applying only to mandatory audits, or should the rule interpret those provisions as applying to all audits conducted by a county assessor?

Committee Discussion:

Staff discussed their contention that Property Tax Rule 305.3 should interpret the equalization provisions in section 469 as applying only to mandatory audits, that is, audits of accounts as described in paragraph one of section 469.

The Deputy County Counsel from El Dorado County spoke on behalf of the California Assessors' Association in support of the Board adopting the County Assessors' and County Counsels' proposals, as presented in Issue Papers 00-041, 00-042, 00-043, and 00-044. Additionally, the County Counsel stated that if the Board decided not to adopt their proposals CAA would support staff's recommendations.

Industry representatives spoke in support of their position that the equalization provisions in section 469 apply to all audits.

Committee Action/Recommendation/Direction:

The Committee voted to recommend that the Board interpret the equalization provisions contained in section 469 as applying only to audits of accounts as described in paragraph one of section 469, whenever such accounts are audited. Additionally, the Committee directed staff to prepare a legislative proposal to apply equalization provisions as contained in section 469 to all audits.

Issue/Topic: (Issue Paper 00-042)

How should Property Tax Rule 305.3 interpret the following language from the fourth paragraph of Revenue and Taxation Code section 469: "the result of the audit discloses property subject to an escape assessment"?

Committee Discussion:

Staff spoke in support of their recommendation to interpret the language "the result of the audit discloses property subject to an escape assessment" to mean a determination in any year of the audit that the net value of any class of property, e.g., personal property, improvements, or land, was underassessed.

Industry representatives spoke in support of their position that the proposed rule interpret "the result of the audit discloses property subject to an escape assessment" to mean a determination of any individual item of property that was underassessed or not assessed in any year of audit.

Committee Action/Recommendation/Direction:

The Committee voted to recommend that the Board interpret the language "the result of the audit discloses property subject to an escape assessment" to mean a determination of any individual item that was underassessed or not assessed at all in any year of audit.

Issue/Topic: (Issue Paper 00-043)

How should Property Tax Rule 305.3 define the phrase "property of the assessee" as used in the equalization provisions of Revenue and Taxation Code section 469?

Committee Discussion:

Staff contended that the rule should define the phrase "property of the assessee" to mean property for which the audited taxpayer is assessed.

A representative from the California Taxpayers' Association spoke in support of their proposal that the rule define "property of the assessee" to mean property at the location of a professional trade or business enterprise that is either assessed to the audited taxpayer or leased by the taxpayer.

Committee Action/Recommendation/Direction:

The Committee voted to recommend that the Board define the phrase "property of the assessee" to mean property for which the audited taxpayer is assessed.

Issue/Topic: (Issue Paper 00-044)

How should Property Tax Rule 305.3 define the phrase "property at the location" as used in the equalization provisions of Revenue and Taxation Code section 469?

Committee Discussion:

Staff addressed their position that the rule should define "property at the location" to mean the property in the appraisal unit of the original assessment for which the property is subject to escape assessment as a result of the section 469 audit.

The Committee expressed their desire for staff to work with interested parties in an effort to develop useful examples, related to the matter of "property at the location."

Committee Action/Recommendation/Direction:

The Committee voted to recommend that the Board instruct staff to provide examples in the rule to help clarify the meaning of "property at the location."

*Including technical amendments to the *State Assessment Manual* as corrected on attached page 45.

Approved: /s/ Marcy Jo Mandel for
Kathleen Connell, Committee Chair

/s/ James E. Speed
James E. Speed, Executive Director

BOARD APPROVED*

At the November 2, 2000 Board Meeting

/s/ Judy Newton
Judy Newton, Chief
Board Proceedings Division

DRAFT

The Board may delegate to a local assessor the duty to assess a property *used but not owned* by a state assessee on which the taxes are to be paid by a local assessee. [Emphasis added.]

Thus, the Board may delegate the duty to assess property leased by a state assessee to the local assessor if a local assessee owns the property and ~~the lease agreement provides that~~ the local assessee-owner pays the property taxes.⁴⁶

There is a qualification that involves leasehold improvements, however. When delegating assessment duty, the Board retains assessment jurisdiction over fixtures installed by the state assessee. The assessment of structural items is typically delegated to the local assessor together with the land and all other improvements.

- (4) Since locally assessed property generally is assessed under the provisions of article XIII A of the California Constitution while state-assessed property is not, when the assessment jurisdiction of a property changes, the method of assessment also changes. For example, if a state-assessed property becomes locally assessed, it should be assessed as all other locally assessed property, and vice versa.
- (5) Generally, property transactions between a state assessee and another state assessee or between a local assessee and another local assessee have no effect on assessment jurisdiction. For example, if one state assessee sells property to another state assessee, generally no assessment action is required by the local assessor.

SOME TYPICAL SITUATIONS

SALE OR LEASE OF PROPERTY FROM LOCAL ASSESSEE TO STATE ASSESSEE

Property purchased or leased by a state assessee from a local assessee is subject to Board assessment jurisdiction as of the date of transfer. Although the Board may, in certain circumstances, delegate assessment jurisdiction of a leasehold improvement to the county assessor, the assessor should notify the Board of the transfer and remove the property from the local assessment roll on the following lien date. During the period the property remains on the local roll, it is assessed in accordance with article XIII A. If the property is inadvertently double assessed, taxes on all or any portion of an assessment of state-assessed property may be cancelled, pursuant to section 5011.

The Board will assess the property on the following lien date, in accordance with subdivision (b) of section 722.5:

⁴⁶ ~~Assessment duty cannot be delegated by the Board to a local assessor, if property taxes are simply passed through by the property owner to the state assessee. In such cases, however, it may be possible to amend the lease agreement in a manner that allows the delegation of assessment duty to the local assessor.~~